

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRYAN SEAN GALVIN	:	CIVIL ACTION
	:	
v.	:	NO. 5:10-1647
	:	
JOHN E. WETZEL, Secretary-Designee, Pennsylvania Department of Corrections; et al.	:	THIS IS A CAPITAL CASE

MEMORANDUM RE: PETITIONER’S PRO SE LETTER IN APPLICATION

Baylson, J.

March 15, 2011

On January 20, 2011, Petitioner Bryan Sean Galvin filed a pro se “Letter in Application” (ECF No. 13) in his action for post-conviction relief pursuant to 28 U.S.C. § 2254, which is currently in suspense and closed for statistical purposes. In his pro se letter, Petitioner raised serious allegations regarding the conditions of his confinement since April 2007, including that he has undergone physical and psychological abuse, such as forced drugging and electric shock.

The Court requested a response from Petitioner’s federal habeas counsel from the Federal Community Defender Office. Petitioner’s Counsel filed a Response to Petitioner’s pro se “Letter in Application” on January 31, 2011 (ECF No. 14), advising the Court that Petitioner also filed his Letter in Application in the Berks County Court of Common Pleas, where Petitioner’s state court post-conviction litigation is proceeding. Counsel requested that to the extent Petitioner has suggested a justiciable federal claim, the matter should be stayed pending exhaustion in state court. Counsel advised that he will address Petitioner’s complaints in the ongoing state court proceedings.

Petitioner then filed a pro se Response to Petitioner’s Counsel’s Response on February

15, 2011 (ECF No. 15), in which he requested that the Court remove his federal habeas counsel, initiate an independent investigation of his complaints, and deny Counsel's request to allow the matter to be resolved in the state court. Petitioner alleged system-wide corruption in capital cases in Berks County, including that "Counsel is not capable of doing any investigation into Petitioners [sic] abuses as he and his firm have become involved with them." In addition, Petitioner filed a pro se "Letter in Application Regarding Abuses" on February 15, 2011 (ECF No. 16), in which he requested "an independent investigation into these abuses as well as the cause of all these corrupt / manufactured capital cases coming out of Berks county," and alleged that the Federal Community Defender Office has not adequately protected his rights. Petitioner filed numerous attachments, including Petitioner's letter to the Pennsylvania Prison Society about alleged prison abuse; Petitioner's letters to the Federal Community Defender Office's Federal Habeas Unit about prosecutorial misconduct; Petitioner's October 29, 2010 affidavit regarding "manufactured capital convictions" in Berks County; and the affidavits of investigators and witnesses in unrelated cases regarding incidents of prosecutorial misconduct or abuse.

Upon consideration of the above filings, and in light of the procedural posture of this case, the Court will not issue any ruling. This case is currently in suspense. Petitioner's pro se letters do not principally concern his post-conviction habeas petition, and do not require or warrant the Court to enter an Order in this case. Pursuant to the request of Petitioner and his Counsel, this Court's September 22, 2010 Order (ECF No. 12) stayed all proceedings in this case. That Order allows Petitioner to comply with the requirement of 28 U.S.C. § 2254 that he exhaust his state court remedies before pursuing federal habeas relief. This Court recognizes the expertise of the Federal Community Defender Office's Federal Habeas Unit, of which

Petitioner's Counsel is a member, and who remains counsel of record in this case. Pursuant to Counsel's request, the Court will continue to hold the federal proceedings in abeyance, pending exhaustion of state court remedies.

BY THE COURT

s/Michael M. Baylson

Michael M. Baylson, U.S.D.J.

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